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Justice Officials Reported Cool To Idea of Press Prosecutions

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Justice Department officials are cool to Central Intelligence Agency Director William J. Casey's proposal to prosecute news organizations for publishing stories about U.S. communications intercepts, but are not close to a decision, government sources said yesterday.

Both the CIA and the Justice Department, meanwhile, maintained silence on a report yesterday in The Washington Post that the Reagan administration is considering prosecuting The Post and four other publications under federal espionage laws.

Casey discussed the possibility of such indictments last Friday at a meeting with Deputy Attorney General D. Lowell Jensen, the No. 2 official at Justice.

Government sources said yesterday that the CIA director also suggested to Justice officials that a civil suit be filed to restrain The Post from publishing an article, which they said concerned Ronald Pelton, a former communications specialist at the National Security Agency now facing trial on charges of selling top secret information to Soviet officials.

Casey's request for a civil suit was turned down, sources said. The Supreme Court ruled 16 years ago in the Pentagon Papers case that the government would have to establish irreparable injury to win a prior restraint against publication.

Following the meeting with Jensen, Casey arranged a meeting with Washington Post Executive Editor Benjamin C. Bradlee and Managing Editor Leonard Downie Jr. Casey told them that "we've already got five absolutely cold violations" against The Post, The New York Times, The Washington Times, Time and Newsweek.

The only stories he mentioned were news articles about intercepted messages between the Libyan government and its People's Bureau, or embassy, in East Berlin before last month's bombing of a West Berlin discotheque frequented by U.S. servicemen.

President Reagan cited several of those messages April 14 in his televised address announcing the just-completed U.S. military attack on Libyan targets.

Casey appears to have delivered his warning only to The Post because he wanted to keep it from publishing a story that was then scheduled for last Sunday's editions.

"You've got to know if you publish this, I would recommend that you be prosecuted under the intelligence statute," Casey told The Post's editors.

Bradlee and Downie yesterday declined again to discuss the subject or contents of that article. "We're talking to lawyers and sources and reserving decision as to whether and when to publish," Bradlee said.

Lawmakers on Capitol Hill said yesterday that neither Casey nor any other high-ranking administration official had expressed interest in prosecutions of news organizations in the past although they have frequently complained about leaks of sensitive information.

"I think when you go after press organizations, you're treating the symptoms rather than the problem," said Sen. Patrick J. Leahy (D-Vt.), vice chairman of the Select Committee on Intelligence. "You should go after the persons doing the leaking. Going after the press raises some very serious First Amendment issues in my mind, and really won't get at the problem."

Sen. Lloyd Bentsen (D-Tex.), also a member of the intelligence panel, said he too had "heard Casey complaining many times about the publication of leaks—that's natural. But I've not heard about prosecution of the press, either at committee meetings or in private conversations."

The law Casey appears to have in mind, Section 798 of Title 18 of the U.S. Code, was enacted in 1950 to protect U.S. communications intelligence activities. As the House Judiciary Committee report on the bill pointed out, it also forbids "the divulging of any information" gleaned from code-breaking activities in order "to prevent the indication to a foreign nation that we may have broken their code system."

Section 798, the so-called COMINT (Communications Intelligence) statute, carries a maximum penalty of 10 years in prison and a $10,000 fine.

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At his meeting with Post editors, Casey mentioned articles about "Libyan intercepts" in reference to The Post and Newsweek. He did not specify the Time, New York Times and Washington Times articles he had in mind, but said The Washington Times article was several months old. One source said yesterday that it may have been an October story dealing with NSA intercepts in June 1982 of cables from Washington to a large Asian corporation.

Time Inc. Editor-in-Chief Henry Grunwald said in a statement that the CIA had refused a request from Time to state which of its articles "may have violated the law."

"It is irresponsible to talk about the possibility of prosecuting Time and other news organizations without telling us what we may be prosecuted for," Grunwald said. "We are not aware of having violated any federal statute."

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